IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR
S.B. Civil Writ Petition No.3400/07
Kedar & Anr. Vs. Bhagirathi

27.09.2007

Hon'ble Mr. Justice Mohammad Rafiq

Shri Ved Pal Shastri for petitioner.
Shri Prahlad Sharma for respondent.

This writ petition was filed with the grievance that the trial court has permitted that power of attorney holder of the plaintiff to be examined in place of the plaintiff himself.

The learned counsel for the petitioner on the last date of hearing i.e. 3.9.2007 had informed the Court that the plaintiff has now on her own applied to the trial court to be examined in evidence and not produce his evidence through the power of attorney. Certified

copy of the application as well as the order passed on that application on 24.8.2007 has been produced before this Court for perusal.

On perusal of the order passed by the trial court on 24.8.2007 it appears that the application was allowed and the plaintiff was given opportunity to examine herself in evidence. The learned counsel for the respondent however contested that position by arguing that subsequently another application was moved by the plaintiff seeking to withdraw the earlier application made on 24.8.2007 and now she does not want to examine herself as a witness and wants to produce the evidence only through his power of attorney. From the certified copy of the order dated 14.9.2007, it

appears that this application itself was considered and rejected by the learned trial court and further opportunity was given to the plaintiff to examine herself as a witness on payment of cost of Rs.1,000/-. The order which is impugned in the writ petition has now been superimposed by a subsequent order.

In view of further developments, the petition has become infructuous and therefore accordingly disposed of as having become infructuous.

(Mohammad Rafiq),J.

Rs/-